

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Citizens Century Cable TV Venture	)	CUID No. CA0960 (Rowland Heights)
	)	
Petition for Reconsideration and Refund Plan	)	

**ORDER ON RECONSIDERATION  
AND REFUND PLAN ORDER**

**Adopted: February 27, 2002**

**Released: March 1, 2002**

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider a petition for reconsideration ("Petition") of our Order, DA 98-2352 ("Prior Order"),<sup>1</sup> filed with the Federal Communications Commission ("Commission") on December 21, 1998 by the above-referenced operator ("Operator"). Our Prior Order resolved a complaint filed against Operator's May 1, 1998 cable programming service tier ("CPST") rate increase. Operator also filed a refund plan ("Refund Plan") in response to our Prior Order. In this Order, we grant Operator's Petition in part, reject Operator's Refund Plan, and calculate our own refund plan.

2. Under the Communications Act,<sup>2</sup> the Federal Communications Commission ("Commission") is authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. The Cable Television Consumer Protection and Competition Act of 1992<sup>3</sup> ("1992 Cable Act") required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber or local franchising authority ("LFA"). The Telecommunications Act of 1996 ("1996 Act")<sup>4</sup> and our rules implementing the legislation ("Interim Rules"),<sup>5</sup> required that a complaint against the CPST rate be filed with the Commission by an LFA that has received more than one subscriber complaint.<sup>6</sup> The filing of a complete and timely complaint triggers an obligation upon the cable operator to file a justification of its CPST rates.<sup>7</sup> The Operator has the

<sup>1</sup> Citizens Century Cable TV Venture, DA 98-2352, 13 FCC Rcd 22768 (1998).

<sup>2</sup> Communications Act, Section 623(c), *as amended*, 47 U.S.C. §543(c) (1996).

<sup>3</sup> Pub. L. No. 102-385, 106 Stat. 1460 (1992).

<sup>4</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996).

<sup>5</sup> See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 5937 (1996).

<sup>6</sup> See Communications Act, Section 623(c), *as amended*, 47 U.S.C. Section 543(c) (1996).

<sup>7</sup> See Section 76.956 of the Commission's Rules, 47 C.F.R. §76.956.

burden of demonstrating that the CPST rates complained about are reasonable.<sup>8</sup> If the Commission finds a rate to be unreasonable, it shall determine the correct rate and any refund liability.<sup>9</sup>

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.<sup>10</sup> Cable operators may also justify rate increases on a quarterly basis using FCC Form 1210, based on the addition and deletion of channels, changes in certain external costs and inflation.<sup>11</sup> Operators may justify their rates on an annual basis using FCC Form 1240 to reflect reasonably certain and quantifiable changes in external costs, inflation, and the number of regulated channels that are projected for the twelve months following the rate change.<sup>12</sup> Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.<sup>13</sup>

4. In its Petition, Operator argues that it became aware of a clerical error contained in Worksheet 8 of its 1998 FCC Form 1240, reviewed in our Prior Order. Operator states that as originally prepared, Worksheet 8 indicated that the monthly CPST rate changed from \$12.41 to \$13.31 effective March 1, 1997. This information was based on billing records obtained by Operator from the system's prior owner. Operator subsequently discovered that the rate change took effect on April 1, 1997. We are persuaded by Operator's argument and have adjusted Worksheet 8 for the month of March 1997. This single adjustment raises Operator's CPST maximum permitted rate ("MPR") from \$14.23 to \$14.31. Operator attached an amended FCC Form 1240 with a calculated MPR of \$14.32, which we will accept because the difference in the rate calculation is *de minimis*. We will modify our Prior Order accordingly. Because we are accepting Operator's calculated MPR of \$14.32, we decline to address any other issues raised by Operator in its Petition. A resolution of any other issues would have no effect on Operator's refund liability.

5. Operator is still overcharging \$0.10 for the period from May 26, 1998 (the date of the first complaint) through March 31, 1999. Operator did not submit an amended refund plan with its Petition and its initial Refund Plan does not meet the requirements of this Order. Therefore, we calculated Operator's refund liability as follows: For the period from May 26, 1998 through March 31, 1999, we calculated an overcharge of \$0.10 per month per subscriber. Our total calculation, including five percent franchise fees plus interest on the overcharges and franchise fees through March 31, 2002, equals \$9,876.00. We will order Operator to refund this amount, plus any additional interest accrued to the date of refund, to its CPST subscribers within 60 days of the release of this Order.

6. Accordingly, IT IS ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that Operator's petition for reconsideration IS GRANTED IN PART TO THE EXTENT INDICATED HEREIN.

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<sup>8</sup> *Id.*

<sup>9</sup> See Section 76.957 of the Commission's Rules, 47 C.F.R. § 76.957.

<sup>10</sup> See Section 76.922 of the Commission's Rules, 47 C.F.R. § 76.922.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

7. IT IS FURTHER ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that In the Matter of Citizens Century Cable TV Venture, DA 98-2352, 13 FCC Rcd 22768 (1998) IS MODIFIED TO THE EXTENT INDICATED HEREIN.

8. IT IS FURTHER ORDERED, pursuant to Sections 0.321 and 76.962 of the Commission's rules, 47 C.F.R. §§ 0.321 and 76.962, that Operator shall refund to subscribers in the franchise area referenced above the total amount of \$9,876.00, plus interest accruing from March 31, 2002 to the date of refund, within 60 days of the release of this Order.

9. IT IS FURTHER ORDERED, pursuant to Sections 0.321 and 76.962 of the Commission's rules, 47 C.F.R. §§ 0.321 and 76.962, that Operator file a certificate of compliance with the Chief, Cable Services Bureau, within 90 days of the release this Order certifying its compliance with this Order.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief  
Cable Services Bureau